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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,497	11/14/2001	Leola Henry	PIL0123/US	3217
33072	7590	03/19/2004	EXAMINER TRAN LIEN, THUY	
KAGAN BINDER, PLLC SUITE 200, MAPLE ISLAND BUILDING 221 MAIN STREET NORTH STILLWATER, MN 55082			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/001,497	HENRY ET AL.
	Examiner	Art Unit
	Lien T Tran	1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 December 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al in view of Freyn et al for the same reason set forth in the previous office action.

In the response filed Dec. 29, 2003, applicant argues Hahn et al do not teach or even remotely suggest that a luxuriant roll can be made with a biscuit dough. This argument is not persuasive. Hahn et al teach any dough can be used with the filling to make a filled dough product. Example of dough products includes coffeecakes, bagels, biscuits, scones, bread sticks and the like. Hahn et al also disclose the filling can be applied to the surface of the dough, or the filling may be rolled into the dough such as a cinnamon roll or the filling can be substantially enclosed within the dough. A combination of a biscuit dough with a filling smeared on it will give a biscuit swirl; thus the making of a biscuit swirl is fully suggested by Hahn et al. With respect to the Freyn et al reference, applicant argues the dough compositions disclosed in the reference are described as bread-like. This argument is not persuasive. The disclosure pointed out by applicant is a comparison of conventional biscuit with a conventional bread loaf; it is not the dough compositions of Freyn et al. The dough compositions disclosed by Freyn et al containing chemical leavening agents as claimed and the dough is not proofed. The dough contains yeast; however, the yeast is added to impart flavor and aroma and does not act as leavening agent because the dough is not proofed prior to the baking. Applicant characterizes in the specification that the biscuit dough is underdeveloped. The dough disclosed by Freyn et al is not proofed prior to baking; thus, the dough is also underdeveloped. Thus, it is obvious the dough disclosed by Freyn et al can be

used to make biscuit. The doughs disclosed by Freyn et al contain essentially the same ingredients as claimed. It is well known in baking that the amounts of ingredients and processing steps can be changed to make different kinds of dough from essentially the same ingredients. Applicant also argues that Freyn et al teach away from using biscuit doughs by the disclosure on column 6 line 66. The disclosure on column 6 line 66 is a result of a comparative testing and Freyn et al disclose the sample having a dense, biscuit-like texture is not within the scope of the disclosure. It is not seen how this teaches away from using biscuit dough because Freyn et al do not elaborate on what biscuit-like means and biscuit generally is not dense. Thus, the making of biscuit dough is not contraindicated because of this disclosure.

Applicant's arguments filed Dec. 29, 2003 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Wednesday and Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 16, 2004


LIEN TRAN
PRIMARY EXAMINER
Group 1702